

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ABEL CANTARO CASTILLO, *and those*  
*similarly situated,*

Plaintiffs,

vs.

Western Range Association,

Defendant.

Case No. 3:16-cv-00237-RCJ-CLB

**ORDER**

Defendant moves for dismissal claiming that this Court lacks subject-matter jurisdiction under Class Action Fairness Act, 28 U.S.C. § 1332(d) (“CAFA”) because Plaintiff and the class members are not citizens of Nevada but citizens of Peru.

Under CAFA, federal courts have original diversity jurisdiction over class actions where the aggregate amount in controversy exceeds \$5,000,000, where the putative class size exceeds 100 persons, and where there is minimal diversity. *King v. Great Am. Chicken Corp, Inc.*, 903 F.3d 875, 877 (9th Cir. 2018) (citing 28 U.S.C. § 1332(d)(2), (d)(5)(B)). Minimal diversity is satisfied by any of the following: “(A) any member of a class of plaintiffs is a citizen of a State different from any defendant; (B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or (C) any member of a class of plaintiffs

1 is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.”  
2 § 1332(d)(2). Even if these requirements are satisfied a court must decline to exercise jurisdiction  
3 under paragraph 4 if, among other things, “two-thirds or more of the members of all proposed  
4 plaintiff classes in the aggregate, and the primary defendants, are citizens of the State in which the  
5 action was originally filed.” § 1332(d)(4)(B). On appeal, the circuit has already held that all but  
6 the minimal diversity requirement was satisfied in this case because, at that time, “[m]inimal  
7 diversity [was] not at issue.” (ECF No. 169.)

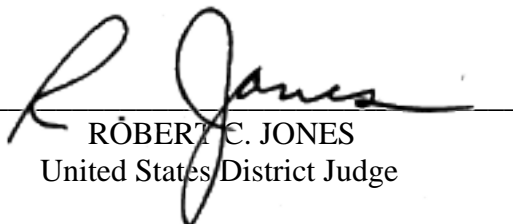
8 Defendant now argues that minimal diversity is not satisfied in this case because Plaintiffs  
9 are citizens of Peru and not citizens of a State. Defendant claims that it is a requirement for minimal  
10 diversity that “two[-]thirds of the Plaintiffs be[] *citizens* of the state in which they are bringing  
11 suit.” (ECF No. 214 at 10.) This is a frivolous contention that appears to be based on the mistaken  
12 belief that minimal diversity is only satisfied under § 1332(d)(2)(A) and that the exception to  
13 jurisdiction under § 1332(d)(4)(B) is a requirement. However, minimal diversity can be found  
14 where any plaintiff is a citizen of a foreign state and any defendant is a citizen of a State,  
15 § 1332(d)(2)(B), and paragraph 4 does not show requirements for jurisdiction under § 1332(d) but  
16 ways in which it is lost, § 1332(d)(4)(B). Defendant’s contentions therefore are without merit, and  
17 the Court denies its motion.

### 18 CONCLUSION

19 IT IS HEREBY ORDERED that Motion to Dismiss (ECF No. 214) is DENIED.

20 IT IS SO ORDERED.

21 Dated February 24, 2021.

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24 ROBERT C. JONES  
United States District Judge